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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2003P01124WOUS	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____ eFiled</p> <p>Signature_____</p> <p>Typed or printed name _____</p>		Application Number 10/567,496	Filed 02/12/2007
		First Named Inventor Erich Bott et al.	
		Art Unit 3723	Examiner Jamal D. Daniel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.
Registration number _____.

attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 62,246

/Andre Pallapies/

Signature

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Typed or printed name

252-672-7927

Telephone number

November 7, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

<input type="checkbox"/>	*Total of _____ forms are submitted.
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

STATEMENT OF ARGUMENTS TO ACCOMPANY
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 21-39 are pending in the application. Claim 21 is independent.

The Rejections under 35 U.S.C. § 102(b)

Claims 21-36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Herron, Jr. (U.S. Patent No. 4,970,753). Applicants respectfully traverse this rejection.

Claim 21 recites, *inter alia*, that “the housing part of the blower housing is a blower compartment cover on which a second capsule part of the insulating capsule is molded *forming another single piece*. The grounds of rejection state that the top cover of the vacuum of Herron meets the limitation in that the outer ring of the top cover, which would cover the duct section (36, 38, 40) is part of the blower housing. The grounds of rejection further state that the innermost section of the cover which would cover the capsule area (18) is part of the insulating capsule. Therefore, the outer ring and the innermost section of the cover are a single piece, thus meeting the claimed limitation. Applicants first note that these separate sections would not support the term “another single piece” and also would conflict with the assertion regarding the first single piece alleged as disclosed at col. 2, lines 36-59.

Further, Applicants maintain that there is no disclosure of a “blower compartment cover” having a second capsule part as claimed. The grounds of rejection in the Response to Arguments again generally state that the cover inherently has a capsule since the purpose is a suction compartment, and as such, the motor would have to be

encapsulated from above as well. Applicants respectfully submit that one of ordinary skill in the art would not equate the rear wall of the top cover and an alleged inherent suction compartment with a second capsule part as claimed.

Further, the grounds of rejection state that Herron, Jr. discloses an insulating capsule, alleged as formed by the U-shaped portion (42) and which is placed inside a blower housing. Applicants respectfully submit one of ordinary skill in the art would not consider a U-shaped portion of Herron, Jr. to be a *capsule* as claimed. Rather, item 42 is a U-shaped wall structure of noise compartment 36 where air flow baffle cartridge is positioned (see col. 3, lines 1-7). Applicants maintain that noise reduction compartment 36 does not surround motor blower assembly 24 as shown in Figure 1 of Herron, Jr.

Finally, col. 2, line 61 – col. 3, line 20 as cited does not disclose a first capsule part of the insulating capsule being joined to a portion of the blower housing while forming a single piece. This section discusses noise compartment 36 which is not a capsule. Accordingly, Applicants respectfully submit that the present invention recited in claim 21 distinguishes from Herron, Jr., and as such, claim 21 is allowable. Claims 22-36 depend on claim 21 and are allowable at least for this reason, as well as their own features.

The Rejections under 35 U.S.C. § 103(a)

Claims 37-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herron Jr. in view of Moshenrose et al. (U.S. Patent Publication No. 2005/0210628). The grounds of rejection acknowledge that Herron, Jr. does not disclose the housing part of the blower comprising a holder for receiving a bearing element for the motor/blower

unit. However, the grounds of rejection state that Moshenrose et al. discloses a vacuum cleaner fan unit in which the housing part of the blower comprises a holder for receiving a bearing element for the motor/blower unit so as to facilitate ease of periodic inspection and maintenance of the unit. Applicants respectfully submit that as disclosed in col. 1, lines 10-30 of Herron, Jr., one drawback in related art vacuum cleaners with walls or other components formed as part of the housing is that it is difficult to implement due to molding constraints. As such, Herron, Jr. teaches a vacuum cleaner where molding is reduced in the housing, unlike in the present invention. Applicants respectfully submit, based on this teaching of Herron, Jr. that one of ordinary skill in the art at the time of invention would have not looked to other art, such as Moshenrose et al., for teaching of the inclusion of additional parts in the housing. Indeed, Herron, Jr. teaches away from this combination. As such, Applicants respectfully submit that the combination of Herron, Jr. and Moshenrose et al. was made using improper hindsight in view of Applicants' own teaching in the present specification. Therefore, claims 37-39 are allowable.

CONCLUSION

In view of the above, reconsideration and allowance of claims 21-39 is respectfully requested. If the Examiner has any questions regarding the remarks herein, the Examiner is kindly requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.